

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1147 be amended to read as follows:

- 1 Page 2, line 9, after "**companionship.**", insert "**Damages**
- 2 **recovered for loss of the adult person's love and companionship**
- 3 **may not exceed on hundred thousand dollars (\$100,000)."**
- 4 Page 2, between lines 14 and 15, begin a new paragraph and
- 5 insert:
- 6 "SECTION 3. IC 34-23-2-1 IS AMENDED TO READ AS
- 7 FOLLOWS: Sec. 1. (a) As used in this section, "child" means an
- 8 unmarried individual without dependents who is:
- 9 (1) less than twenty (20) years of age; or
- 10 (2) less than twenty-three (23) years of age and is enrolled in a
- 11 institution of higher education or in a vocational school or
- 12 program.
- 13 (b) An action may be maintained under this section against the
- 14 person whose wrongful act or omission caused the injury or death of a
- 15 child. The action may be maintained by:
- 16 (1) the father and mother jointly, or either of them by naming the
- 17 other parent as a codefendant to answer as to his or her interest;
- 18 (2) in case of divorce or dissolution of marriage, the person to
- 19 whom custody of the child was awarded; and
- 20 (3) a guardian, for the injury or death of a protected person.
- 21 (c) In case of death of the person to whom custody of a child was
- 22 awarded, a personal representative shall be appointed to maintain the
- 23 action for the injury or death of the child.
- 24 (d) In an action brought by a guardian for an injury to a protected
- 25 person, the damages inure to the benefit of the protected person.
- 26 (e) In an action to recover for the death of a child, the plaintiff may
- 27 recover damages:

1 (1) for the loss of the child's services;
2 (2) for the loss of the child's love and companionship **in an**
3 **amount not to exceed one hundred thousand dollars**
4 **(\$100,000); and**
5 (3) to pay the expenses of:
6 (A) health care and hospitalization necessitated by the
7 wrongful act or omission that caused the child's death;
8 (B) the child's funeral and burial;
9 (C) the reasonable expense of psychiatric and psychological
10 counseling incurred by a surviving parent or minor sibling
11 of the child that is required because of the death of the
12 child;
13 (D) uninsured debts of the child, including debts for which
14 a parent is obligated on behalf of the child; and
15 (E) the administration of the child's estate, including
16 reasonable attorney's fees.
17 (f) Damages may be awarded under this section only with respect
18 to the period of time from the death of the child until:
19 (1) the date that the child would have reached:
20 (A) twenty (20) years of age; or
21 (B) twenty-three (23) years of age, if the child was enrolled
22 in an institution of higher education or in a vocational
23 school or program; or
24 (2) the date of the child's last surviving parent's death;
25 whichever first occurs.
26 (g) Damages may be awarded under subsection (e)(2) only with
27 respect to the period of time from the death of the child until the date
28 of the child's last surviving parent's death.
29 (h) Damages awarded under subsection (e)(1), (e)(2), (e)(3)(C),
30 and (e)(3)(D) inure to the benefit of:
31 (1) the father and mother jointly if both parents had custody of
32 the child;
33 (2) the custodial parent, or custodial grandparent, and the
34 noncustodial parent of the deceased child as apportioned by the
35 court according to their respective losses; or
36 (3) a custodial grandparent of the child if the child was not
37 survived by a parent entitled to benefit under this section.
38 However, a parent or grandparent who abandoned a deceased child
39 while the child was alive is not entitled to any recovery under this
40 chapter.

41 Page 2, line 15, delete "**IC 34-23-1-2, as added**".

42 Page 2, line 16, delete "**by this act,**" and insert "**This act**".

43 Page 2, delete lines 18 through 34.

(Reference is to HB 1147 as printed January 26, 1999.)

Representative FOLEY